

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

UNITED STATES OF AMERICA for the use of )  
WATERFURNACE INTERNATIONAL, INC., an )  
Indiana corporation, )  
Plaintiff, )  
v. ) No: 07 C 7256  
VARIO CONSTRUCTION COMPANY, INC., an )  
Illinois corporation, CHARPIE CONSTRUCTION )  
CO., INC. an Illinois corporation and TRAVELERS )  
CAS. & SURETY CO. OF AMERICA, a Maryland )  
corporation, and JAMES F. RIO, individually, )  
Defendants. )

**NOTICE OF MOTION**

**TO: See Attached Service List**

On Thursday, March 6, 2008 at 9:00 am or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Wayne R. Andersen, or any other judge sitting in Courtroom 1403 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, and then and there present the attached **WaterFurnace International, Inc.'s Voluntary Motion to Dismiss Its Complaint For Breach Of Contract And Claim Under The Miller Act**, a copy of which is hereby served upon you.

Respectfully submitted,

**WaterFurnace International, Inc.,**

By: /s/ Richard T. Niemerg  
One of Its attorneys

Richard T. Niemerg  
James T. Rohlfing  
Rohlfing & Oberholtzer  
211 West Wacker Drive, Suite 1200  
Chicago, Illinois 60606  
(312) 923-7100

**CERTIFICATE OF SERVICE**

I, Richard T. Niemerg, certify under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure that I served a copy of the attached Notice and **WaterFurnace International, Inc.'s Voluntary Motion to Dismiss Its Complaint For Breach Of Contract And Claim Under The Miller Act**, a copy of which is attached, upon the parties listed below, by enclosing same in a properly addressed envelope, regular mail, postage prepaid, and causing it to be deposited in the United States mail depository located at 211 West Wacker Drive, Chicago, Illinois 60606, on this 12<sup>th</sup> day of February, 2008 before 5:00 p.m.

/s/Richard T. Niemerg

Charpie Construction Co., Inc.  
c/o Loni Erhard, Registered Agent  
6615 North Avondale Avenue  
Chicago, Illinois 60631

James F. Rio  
309 Linden Street  
Glen Ellyn, Illinois 60137

Travelers Cas. & Surety Co. of America  
c/o Illinois Department of Financial and Professional Regulation,  
Division of Insurance, James R. Thompson Center  
100 West Randolph Street, Suite 9-301  
Chicago, Illinois 60601

Vario Construction Company, Inc.  
c/o John E. Partelow, Registered Agent  
820 West Jackson Blvd., Suite 300  
Chicago, Illinois 60607